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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,705	12/13/2000	Alain Emile fracois Roesgen	DN1998090USA	3268

7590 10/07/2003
Howard M Cohn
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1144 East Market Street
Akron, OH 44316-0001

EXAMINER

KNABLE, GEOFFREY L

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 10/07/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/719,705

Applicant(s)

ROESGEN, ALAIN EMILE
FRACOIS

Examiner

Geoffrey L. Knable

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,8,9 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,8 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. Claims 15-20 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention/species, there being no allowable generic or linking claim. Election was made by original presentation and has not been traversed.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 2, 4, 5, 8 and 9 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 has been amended to define that the underlay has an elastic modulus between 1 and 15 GPa. The examiner has examined the original disclosure and cannot find any support for this new requirement and none has been specifically pointed to by applicant. As such, this was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, i.e. it is considered to be new matter.

4. Claims 1, 2, 4, 5, 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In addition to the new matter rejection, it is also noted that it is not entirely clear how the claimed elastic modulus between 1 and 15 GPa is measured, the fact that the ply is not a homogenous material (i.e. it is discrete cords in rubber) making it seemingly highly dependent upon the manner of measurement thereof. Since it is not apparent where this is described in the original disclosure, resort thereto is apparently of no help in resolving this ambiguity.

5. Claims 1, 2, 4, 5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welter (US 4,262,726) or Iwata et al. (US 4,842,682) or Cluzel (US 5,996,662) taken in view of Oare et al. (US 5,368,082), EP 335,588 to Sumitomo and GB 1,487,426 to Verbauwheide as applied in the last office action.

6. Applicant's arguments filed July 22, 2003 have been fully considered but they are not persuasive.

Applicant first points out that Welter does not suggest winding to form the relevant ply. While this is agreed with, it is still submitted that in this art, when forming plies that have cords oriented at essentially zero degrees to the equator, it is extremely well known and common to form these plies by winding a ribbon at a low angle with adjacent windings adjoining one another rather than as a single wrap ply with a splice – GB '426 and EP '588 were applied as merely exemplary. To form the low angled plies of the Welter by winding a ribbon would therefore have been obvious and further would have provided the well known and expected benefit of avoiding the material splice (and its consequent non-uniformities as well as potential weakness) that would otherwise be required in applying a full width ply.

As to Iwata et al. '682, it is argued that the underlay cords in this reference are steel cords and therefore are completely different from the claimed cords. While it is agreed that Iwata seems to prefer steel cords for the underlay, it is apparent that the reference is not so limited in terms of the cord material for the underlay – note for example col. 2, lines 23+ and col. 5, lines 13+. It would seem that the principal requirement for the cords is that they have above a certain lower modulus limit, not necessarily that they be steel. Substitution with other well known very high modulus cord materials (e.g. such as glass or aramid/Kevlar) would therefore have been obvious in light of the guidance provided by this reference and would seem to meet the claimed material requirement.

As to Cluzel, while it also seems to only exemplify steel, it would seem that the material is not critical to the invention as long as it is high modulus – note for example claim 1 of the patent, which mentions the material for the other belt plies but not the ply 20. As such, absent some showing to the contrary, the artisan would have found it obvious to substitute other well known very high modulus materials, particularly aramid.

The arguments with respect to the secondary references have also been carefully considered but are not persuasive as these references principally were directed at exemplifying the well known use of sidewall inserts to impart run flat ability as well as the well known winding of strips to form zero degree type belt layers. While it is agreed that there are features that distinguish some specific teachings in these references from that claimed, most of these teachings have been provided by the primary references and it has not been shown why the artisan would have considered the basic inclusion of run flat

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inserts or zero degree strip winding to be incompatible with the teachings of these primary references.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

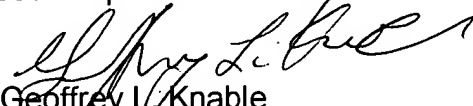
Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 703-308-2062. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 703-308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.


Geoffrey L. Knable
Primary Examiner
Art Unit 1733

G. Knable
October 5, 2003